

**Remarks**

**I. Claim amendments**

Claims 1 and 3-15 are pending in this application. Claim 1 has been amended to recite that operation of the actuating means in the claimed powder inhaler results in the movement of the metering member as well as the closure element. Support for this amendment appears in the specification at page 3, lines 31-32.

Applicants respectfully request that the Examiner enter this amendment after final rejection. The amendment to claim 1 does not raise new issues. Indeed, applicants had already explained on page 4 of the Amendment filed on April 24, 2004, that movement of the actuating means by the user will result in the movement of the closure element.

**II. Rejection under 35 U.S.C. § 102**

The Examiner maintained the rejection of claims 1, 3-4, 9-11 and 14 under 35 U.S.C. § 102(b) as being anticipated by the disclosure of U.S. Patent No. 5,447,151 to Bruna et al. ("Bruna"). In support of the rejection, the Examiner maintained the position that the actuating means in the Bruna device was in communication with the closure element of the device.

Applicants continue to disagree with this rejection. In an effort to expedite prosecution, applicants have amended claim 1 to recite that operation of the actuating means in the claimed powder inhaler results in the movement of the metering member as well as the closure element. Bruna does not teach or suggest the invention having at least this feature.

The Examiner, referring to the diagram presented on page 5 of the Final Office Action, argued that the actuating means of the Bruna device "communicates" either directly or indirectly with the closure element of the device via a passageway. Even if that were the case, Bruna does not teach or suggest that operation of the actuating means would result in the movement of the metering member as well as the closure element as claimed. As applicants have explained before, the disclosed purpose of the non-return valve (85) in Bruna is to enable the user to suck air through the mouthpiece and to prevent the user from blowing air into the suction channel. Bruna at col. 3, lines

19-22; col. 14, lines 18-31; col. 27, lines 18-22. The non-return valve thus opens and closes depending on the inhalation force of the user. The document does not suggest abandoning this relationship and instead tying the opening and closing of the non-return valve to mechanical interaction with the inhaler's actuator.

In view of the above, applicants respectfully request that the Examiner withdraw this rejection.

### **III. Rejection under 35 U.S.C. § 103(a)**

The Examiner also maintained the rejection of claims 12 and 13 under 35 U.S.C. § 103(a) over Bruna in view of WO 90/02576. As explained in response to the first rejection, Bruna does not teach the features of claim 1 and does not render claim 1 obvious. The Examiner relied on WO 90/02576 only for a teaching of a second sealing means. A teaching of a second sealing means in combination with the Bruna disclosure still does not suggest the invention of claim 1 and thus its dependent claims including claims 12 and 13. For at least this reason, this rejection should be withdrawn.

In view of the amendment and remarks above, all pending claims should be in condition for allowance. If there is any fee due in connection with the filing of this Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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By:



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